



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,038	03/22/2001	Robert A. Medwick	09785980-0067	6181
25700	7590	03/07/2006		EXAMINER
				JERABEK, KELLY L
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/816,038	MEDWICK ET AL.	
	Examiner	Art Unit	
	Kelly L. Jerabek	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 January 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-6, 14-20, 25, 26 and 28 is/are allowed.
- 6) Claim(s) 7-13, 21-24, and 27 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1/19/2006 have been fully considered but they are not persuasive.

Response to Remarks:

Applicant's arguments (Amendment page 16) state that amended independent claims 7 and 21 recite "A signal bearing media having machine readable instructions for execution by a processor to adjust image lighting" now contain statutory subject matter and should be allowed. The Examiner respectfully disagrees. The Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility stat that signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of USC 101 (Interim Guidelines, pages 55-58). The "signal bearing media having machine readable instructions" disclosed in independent claims 7, 21, 22 and 23 does not fall within any of the four statutory classes of USC 101 because non-statutory media such as carrier waves are classified as "signal bearing media having machine readable instructions". Applicant's specification does not further specify what type of "signal bearing media having machine readable instructions" may be used in the invention therefore, the Examiner is reading the claimed "signal bearing media

having machine readable instructions" as including non-statutory media such as carrier waves.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7-13, 21-24, and 27 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 7-13, 21 and 27 disclose "A signal bearing media having machine readable instructions for execution by a processor to adjust image lighting, the signal bearing media comprising:....". The Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility stat that signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of USC 101 (Interim Guidelines, pages 55-58).

Claims 22-24 disclose "A signal bearing media having machine readable instructions for adjusting image lighting, the signal bearing media comprising:....". The Interim Guidelines for Examination of Patent Applications for Patent Subject Matter

Eligibility stat that signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of USC 101 (Interim Guidelines, pages 55-58).

Allowable Subject Matter

Claims 1-6, 14-20, 25-26 and 28 are allowed.

The following is an examiner's statement of reasons for allowance:

Re claim 1, the prior art does not teach or fairly suggest "A method of adjusting image lighting, the method comprising: generating a preparatory light...; capturing a preparatory image...; determining an average preparatory image luminance...; generating a supplemental strobe duration...; and generating a look-up table storing associated image strobe durations and power values including a preparatory image strobe duration and associated preparatory power value".

Re claims 14 and 28, the prior art does not teach or fairly suggest "A digital imaging system comprising: a processor electrically connected to a strobe; an image sensor coupled to a memory...; wherein the processor access a look-up table in the memory that stores image strobe durations and power values including a preparatory strobe duration and an associated preparatory power value".

Re claim 18, the prior art does not teach or fairly suggest "A method of adjusting image lighting on a preparatory image comprising: generating preparatory light, determining an average preparatory image luminance and generating a supplemental strobe duration, wherein the system is capable of generating a look-up table that stores image strobe durations and power values including a preparatory image strobe duration and an associated preparatory power value and generating an adjustment factor by dividing a predetermined target luminance by the average image luminance".

Re claim 19, the prior art does not teach or fairly suggest "A method of adjusting image lighting on a preparatory image comprising: generating a preparatory light...; determining an average preparatory image luminance...; generating a supplemental strobe duration; wherein the system is capable of generating a look-up table that stores image strobe durations and power values including a preparatory image strobe duration and an associated preparatory power value; generating a light adjustment factor...; multiplying the preparatory value by the light adjustment factor...; and generating a final image strobe duration by interpolating the first and second image strobe durations in accordance with the target look-up table power value".

Re claim 20, the prior art does not teach or fairly suggest "A method of adjusting image lighting on a preparatory image comprising: generating preparatory light...; determining an average preparatory image luminance...; generating a supplemental

strobe duration...; generating a look-up table storing associated image strobe durations and luminance power values including a preparatory image strobe duration and a preparatory value; and accessing the look-up table based on the average image luminance”.

Re claim 25, the prior art does not teach or fairly suggest a digital imaging system comprising: “A processor connected to a strobe; and an image sensor coupled to a memory..., wherein the processor is capable of accessing a look-up table in the memory that stores image strobe durations and power values including a preparatory image strobe duration and an associated preparatory power value to generate an adjustment factor by dividing a predetermined target luminance by the average image luminance power value and then multiplying the adjustment factor by the preparatory luminance power value to derive the target luminance power value that corresponds to an identified strobe duration in the look-up table”.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is (571) 272-7312. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for

submitting all Official communications is (703) 872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at (571) 273-7312.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KLJ



DAVID OMETZ
SUPERVISORY PATENT EXAMINER